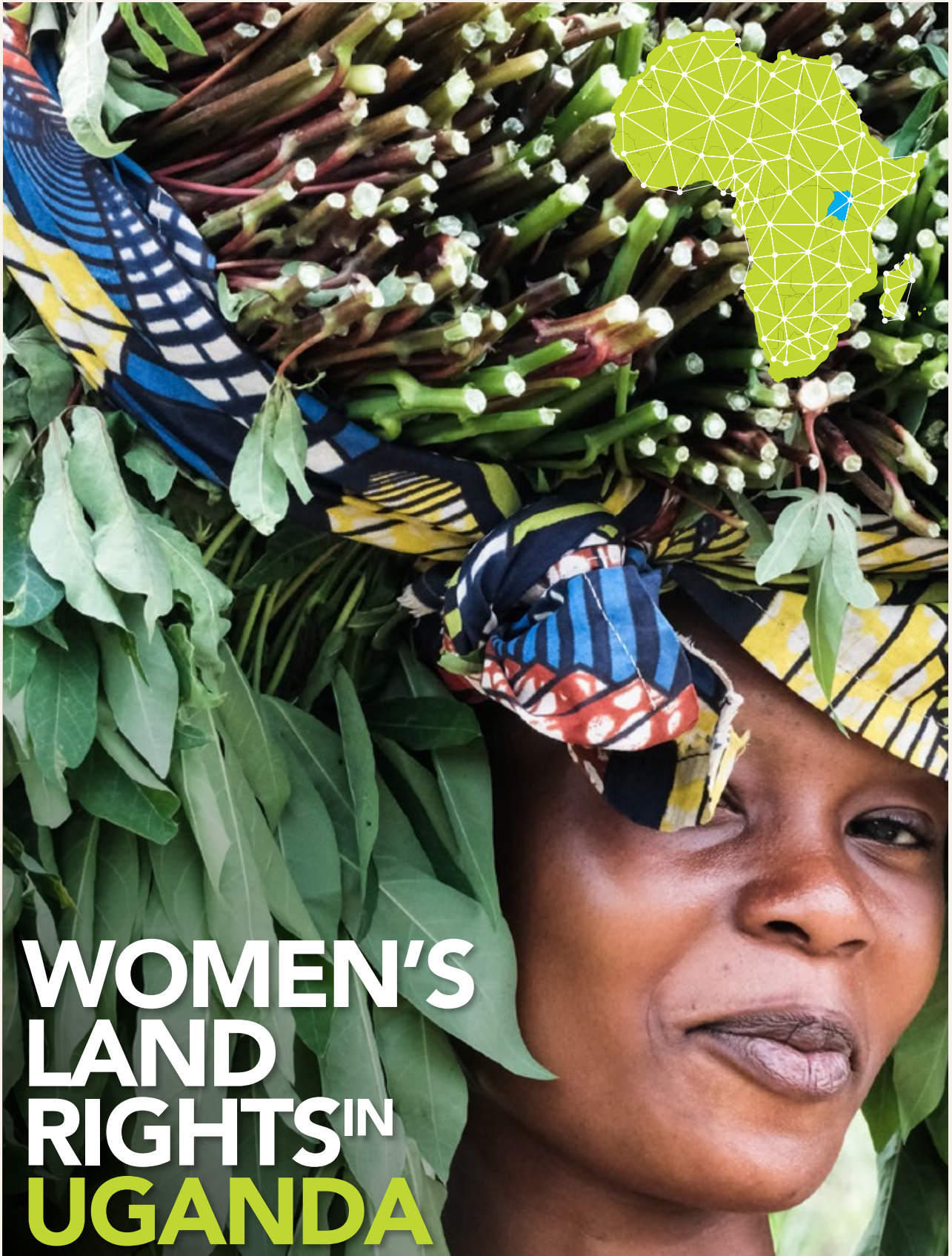




**SECURING  
WOMEN'S  
RESOURCE RIGHTS  
THROUGH GENDER  
TRANSFORMATIVE  
APPROACHES**



Investing in rural people



**WOMEN'S  
LAND  
RIGHTS IN  
UGANDA**



Alliance



INTERNATIONAL  
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## ABOUT THE INITIATIVE

### SECURING WOMEN'S RESOURCE RIGHTS THROUGH GENDER TRANSFORMATIVE APPROACHES

In 2020, the International Fund for Agricultural Development (IFAD) invited a consortium of the Center for International Forestry Research and World Agroforestry (CIFOR-ICRAF), the International Food Policy Research Institute (IFPRI) and the Alliance of Bioversity International, and the International Center for Tropical Agriculture (CIAT) to work with selected IFAD projects to promote and strengthen women's land rights through the integration of gender transformative approaches (GTAs) in rural development interventions by improving policies, tools and practices.

<https://www.cifor.org/wlr>

[https://www.ifad.org/en/gender\\_transformative\\_approaches](https://www.ifad.org/en/gender_transformative_approaches)

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# WOMEN'S LAND RIGHTS IN UGANDA



<b>ALC</b>	Area Land Committee
<b>CBLA</b>	community-based legal aid
<b>CCO</b>	Certificate of Customary Ownership
<b>CIFOR-ICRAF</b>	Center for International Forestry Research and World Agroforestry
<b>CLA</b>	Communal Land Association
<b>CO</b>	Certificate of Occupancy
<b>IFAD/ADF</b>	International Fund for Agricultural Development and the African Development Fund
<b>DLB</b>	District Land Board
<b>LCC</b>	Local Council Court
<b>LSSP</b>	Land Sector Strategy Plan
<b>MLHUD</b>	Ministry of Lands, Housing and Urban Development
<b>MWE</b>	Ministry of Water and Environment
<b>NLP</b>	National Land Policy

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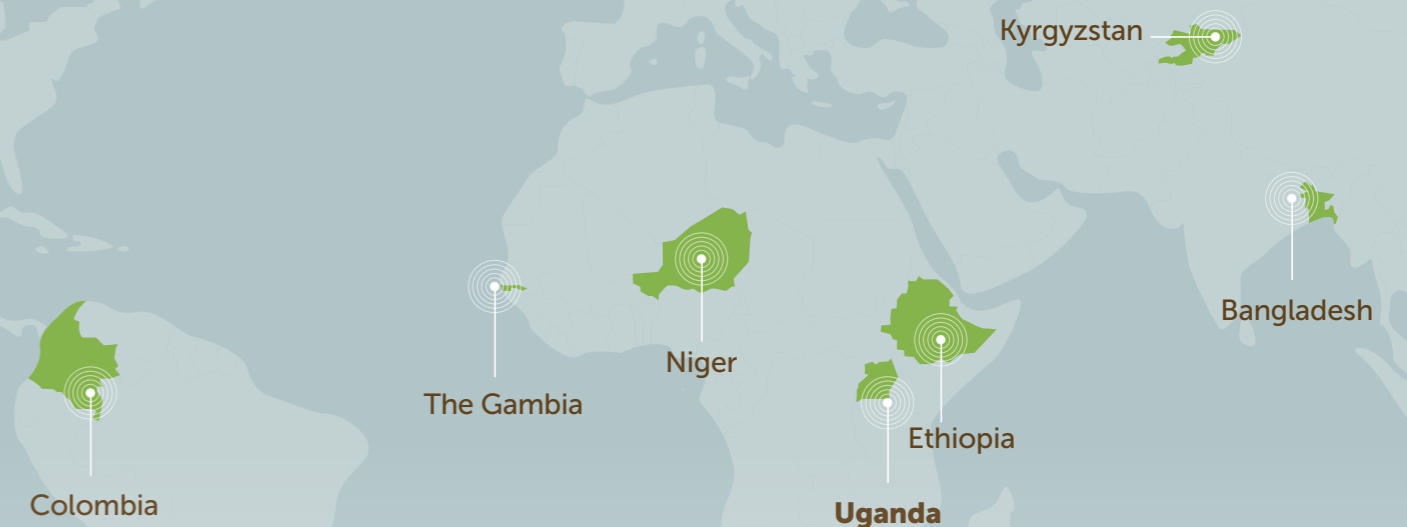


# Background

This series of socio-legal reviews summarizes the legal and policy documents related to women's land tenure in seven countries: Kyrgyzstan, Uganda, The Gambia, Ethiopia, Niger, Bangladesh and Colombia. These synthesis documents, part of the IFAD Initiative on Women's Resource Rights, are designed for researchers and policymakers seeking to improve women's land and resource rights in these target countries.

## WHAT IS A SOCIO-LEGAL ANALYSIS?

A socio-legal analysis focuses on reviewing laws in the context of particular social problems that the law aims to address (Schiff, 1976; Creutzet et al., 2019). Findings draw on the analysis of country legal and institutional frameworks that recognize women's land rights, and information on existing procedures and processes for implementing tenure interventions. These analyses provide the basis for identifying incongruencies, overlaps, gaps that pose barriers to the recognition and enjoyment of women's rights to land and productive resources.



## THE REVIEW COVERS:

- **A general characterization of land and resource tenure systems** at national, regional, and local levels
- **Existing institutional and regulatory frameworks** for land and resource tenure, and the extent to which these are inclusive of women
- Implemented **land tenure interventions**, and the extent to which these benefit women
- **Barriers and constraints** affecting women's ability to access rights
- Mechanisms for **dispute resolution**, and how these engage women and address their concerns

# Introduction

Following constitutional reforms in the 1995 Constitution, Uganda has promoted important reforms formalizing customary tenure systems and promoting changes in land administration that recognize women's participation and engagement in land governance structures.

The Constitution and the Land Act of 1998 introduced affirmative actions that sought to protect women's land rights, including provisions that allow joint and co-ownership of land and, importantly, requiring the consent of both husband and wife to enter into land deals. Additionally, land regulations established quotas for women's participation and representation across newly created structures at different governance levels. Land tenure interventions provided opportunities for the recognition of women's rights through registration and certification. However, boundaries across tenure regimes remain unclear, and incongruencies between regulatory frameworks are confounding, leading to overlaps and conflicts in coexisting law.

Measures to resolve these conflicts have included community-based legal programmes that aim to increase legal awareness and develop paralegal figures, including through the support of a legal system that allows the establishment of Local Council Courts and the recognition of traditional customary mediation practices at the local level. In practice, however, *women's access rights to land are mediated by their social relations and status through male relatives within traditionally patrilineal and patrilocal systems*. Women have difficulty retaining land rights when they become widowed or divorced, or if they remain unmarried.



## SOCIO-ECONOMIC CHARACTERISTICS OF UGANDA

<p>Area 241,038 km<sup>2</sup></p>	<p>Population (2022) 46 million</p>	<p>Population density (2020) 228 people/km<sup>2</sup> of land area</p>	<p>Rural population (% 2020) 75%</p>
<p>Women (15-49) engaged in decision-making (2016) (Healthcare, Purchase, and Mobility) 51.1%</p>	<p>Gender Inequality Index (2019) 42.7</p>	<p>Labour force in agriculture (2015) 71%</p>	<p>Proportion of female employment in agricultural sector (2019) 77%</p>
<p>Poverty Headcount Ratio (2017) 41%</p>	<p>Agriculture as a % of GDP (2017) 28.2</p>	<p>Political Administration Presidential Republic</p>	<p>Ethnicity Belong to at least 1 of the 9 major ethnic groups</p>

**Source:** Based on socioeconomic indicators in the World Development Indicators, the World Factbook and the Global Human Development Indicators databases

# Characterization of the land tenure system in Uganda

## LAND TENURE REGIMES

The Constitution and the 1998 Land Act (amended in 2010) recognize four tenure systems, namely: customary, *mailo*, leasehold and freehold. Freehold tenure (i.e., holding of registered land where the holder has full ownership rights):

- Customary tenure whereby land is governed by customary laws and owned communally and individually or jointly by groups of people (Tripp, 2004). Most common tenure system practiced in Uganda, covering 75–80% of the land area (Doss et al., 2014:81); Dominant in the northern, eastern and West Nile regions (Kagoda, 2008; Obaikol, 2014).;
- *Mailo* tenure whereby landlords have ownership over land/land that was apportioned between the British Protectorate Government and the King of Buganda under the 1900 Buganda Agreement (Djurfeldt, 2020:5). Practiced only in the central region following recognition in the Constitution;
- Leasehold tenure whereby land is leased for a specific period under certain conditions. Most common in the western and central regions (ibid., 2020);
- Freehold tenure whereby land is owned freely with no restrictions on time or use within the bounds of other laws, including land which has been converted from customary or leasehold tenure.

Under customary and *mailo* systems, there are two types of tenancy or occupancy recognized (MLHUD 2017):

- Lawful occupants are those persons who occupy land by virtue of previous laws (repealed laws) related to land issues; those persons occupying land with the consent of the registered land owner; and those persons with legitimate customary tenure rights even if unknown to the currently registered owner;
- Bona fide occupants are those persons who occupied the land, unchallenged by the registered owner, for at least twelve years prior to the 1995 Constitution; or those who have been settled by the Government and Governmental authorities.

All other occupants are unprotected by law and may include unlawful occupants, illegal tenants, trespassers, licensees, lessees, renters (ibid., 2017).

## LAND TENURE MECHANISMS

This section discusses land tenure interventions: land registration and two different types of land certification.

### REGISTERING LAND

Uganda uses the Torrens system of titles registration<sup>1</sup> introduced through the Registration of Titles Act of 1924. This act applies to all freehold, leasehold and *mailo* land, and more recently to customary tenure that was converted to freehold following the 2010 Land (Amendment) Act. Different land registries exist based on the type of land tenure system. Certificates of titles and transactions related to land are recorded in registry books at the respective governance level (Oryema, 2016). For example, registries for *mailo* and freehold/leasehold land are kept at the Ministerial Zonal Offices at the district level,<sup>2</sup> while registries for customary land are housed at the districts with the District Land Boards (DLBs) (Oryema, 2016).

### CERTIFICATES

Certificates can be issued to individuals or groups based on the tenure regime corresponding to the land claims. Existing provisions establish two different types of certificates for either *mailo* or customary land...

#### Certificate of occupancy for *mailo*

*Mailo* certificates of title are granted to lawful and bona fide occupants in the form of a Certificate of Occupancy (COO). While the landlord/lady maintains ownership over the private *mailo*, COOs aim to provide security to tenants (*kibanja* (s), *bibanja* (pl)) who are lawful occupants (Liversage, n.d.).




#### Certificate of customary ownership (CCO) for customary land

A person, family or community holding customary land receives a Certificate of Customary Ownership (CCO) (Section 7 of the Land Act) (Knight et al., 2012; Obaikol, 2014). CCOs can be upgraded to freehold titles (Section 10). CCOs recognize rights-holders at the levels of households (mostly household heads for joint title certificates), individuals (especially women in urban areas) and collectives (through Communal Land Associations – CLAs) (Burke and Kobusingye, 2014; Kagoda, 2008). In practice, however, the issuing of CCOs for individuals and COOs have been relatively slow compared to leasehold agreements (Obaikol, 2014).

<sup>1</sup> Introduced in 1908, the land administration management in Uganda is based on the Torrens system developed in 18<sup>th</sup>-century Britain. The tenets of the Torrens system are that the government office is the issuer and the custodian of all original land titles and all original documents registered against them. Further, the government employees in their management tasks examine documents and then guarantee them in terms of accuracy (Nkote, 2012).

<sup>2</sup> The government established the Ministerial Zonal Offices in a bid to take services closer to the public. Before their establishment, all land transactions were conducted at the Lands Ministry Headquarters. Lands Ministry temporarily closes Wakiso zonal land office (independent.co.ug)

Table 1. Type of tenure interventions in Uganda

			
	LAND TITLING	LAND REGISTRATION	CERTIFICATION
Goal	To grant in freehold land that is recognized to households. In urban lands, it can be recognized as individual (to women) land titles.	To establish different types of registries that record changes in the transfer of rights and review existing overlapping rights (and claims).	The Land Act recognizes two different types of certificates that allow both individuals and collectives to secure all types of tenure: <ul style="list-style-type: none"> <li>• Certificate of Customary Ownership (CCO) applies to the registration of customary lands for individuals, household or groups.</li> <li>• Certificates of occupancy (COOs) are provided to tenants on <i>mailo</i> lands.</li> </ul>
Scale	Plot	Plot	Plot
Rights holder	<ul style="list-style-type: none"> <li>• Household (private lands)</li> <li>• Individual/collective (customary lands)</li> </ul>	<ul style="list-style-type: none"> <li>• Household</li> <li>• Communal customary lands</li> </ul>	<ul style="list-style-type: none"> <li>• Household (head of the household)- Individuals (women); urban land titles</li> <li>• Collective (Communal Land Associations, particularly for forest or agricultural lands and pastures for grazing); joint certification (mostly between landowner and tenants on <i>mailo</i> land)</li> </ul>

In the case of landholding under customary tenure, Communal Land Associations may be formed to access customary land (Section 16 and 23, the Land Act). On communally owned land, associations may establish areas for common land use for grazing and gathering of woodfuel, and these should be managed under common land management schemes, although the law also provides for recognition of landholdings for individuals (Section 26). Furthermore, the Land Act determines that water rights cannot be alienated and unalienated (Section 71).

Land demarcation is, therefore, mostly done to regularize, survey and map out traditional boundaries for customary tenure lands (both households and collective rights-holders). In some cases, customary land is also demarcated and reallocated as freehold titles for individuals or groups for agricultural, forest and pastoral grazing lands (Obaikol, 2014).

However, in communally held land, even in cases where access to land is formalized through individualized rights, using land as collateral is limited (Djurfeldt, 2020). Landowners are allowed to transfer land via sale or lease lands for a defined period. However, landowners can convert a CCO to a freehold title which then allows landholders to transfer, mortgage or pledge their lands (Obaikol, 2014; Tripp, 2004; Ghebru, 2019).

On the other hand, tenants by occupancy can also have COOs on leasehold lands, which allow them to sell, lease, mortgage or pledge land, once consent from the registered owner has been sought as provided by Section 35(1,2) of the Land Act (Nakirunda, 2011). Leasing arrangements for those with COOs are often preferred within a period of 49 years, and this is commonly practiced by tenants in the Buganda District (Liversage, n.d.).



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## IMPLEMENTATION OF LAND POLICY

The implementation of the land policy is led by the Ministry of Lands, Housing and Urban Development (MLHUD) through the Land Sector Strategy Plan Phase (LSSP). Phase 1 followed a ten-year plan (LSSP 1, 2002–2012) and Phase 2 is currently ongoing (LSSP 2, 2013–2023).

Phase 1 focused primarily on the titling of high-value rural land in Iganga, Ntungamo, Kibaale and Mbale districts, using best practice, low-cost and transparent approaches (MLHUD, 2021)<sup>3</sup>. LSSP 1 reduced registration costs from more than USD 200 to about USD 23, although only ten Communal Land Associations were registered during this period (ibid.). Furthermore, very little was achieved in the digitization of the land registry (Luyombya and Obbo, 2013; Obaikol, 2014).

While the registration costs have been reduced by the MLHUD, the data are ambiguous with respect to: i) the type of tenure system to which the high value rural land refers and ii) specifically which costs have been subsidised to allow for the reduction in fees. The experience of a 2015-2018 Land Security and Economic Development project (LSED) in Nwoya District in partnership with Ministry of Lands, Housing and Urban Development, Nwoya District Local Government, Makerere University School of the Built Environment, Acholi Religious Leaders Peace Initiative (ARLPI) and International Justice Mission (IJM) provides evidence to the contrary. The LSED project reported that despite progress achieved by ZOA and partner organisations on land interventions, the cost of obtaining CCOs remain prohibitive and should be addressed by the MLHUD (ZOA, 2018).

Reduced registration costs are primarily attributed to international organisation projects to promote land registration in Uganda. Costs are offset by these organisations through subsidies to the MLHUD land policy programmes to reduce the actual cost borne by individual landowners.

The global project on “Responsible Land Policy” (GIZ funded, 2016-2024), for example, supports rural institutions in issuing land ownership certificates to smallholders. The project is carried out in four regions in Uganda: Central Uganda (Mubende, Kassanda and Mityana Districts), North-western Uganda (Arua District), Northern Uganda (Dokolo and Amolatar Districts and Eastern Uganda (Katakwi and Soroti districts) (Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, 2021). In the Katakwi and Soroti Districts alone, land use and landownership rights of 5000 households have been documented by the State and recognised by traditional authorities (Park, 2018).

LSSP 2 aims to address issues emerging in Phase 1 and additionally focus on registration and certification of communal lands in the northern and eastern regions of Uganda. Under Phase 2, approximately 15 million individual land parcels have been registered in the country thus far, although the programme has remained slow due to limited financial resources (MLHUD, 2021).

By 2018, fewer than 20% of the land plots in Uganda were registered and few customary landowners had land titles (Becker, 2019; Oryema, 2016). World Bank reported that less than a quarter of rural lands hosting 90% of the population had been mapped and registered, with approximately 515,000 titles issued to that point (Obaikol, 2014). Such challenges raise important concerns about the government’s capacities to sustain land certification processes once international funding comes to an end.

<sup>3</sup>The Ministry of Lands, Housing and Urban Development on its website indicated the drop in registration cost. <https://mlhud.go.ug/projects-2/cedp/>.



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## OWNERSHIP AND USUFRUCT RIGHTS

Within the different tenure systems, there may be different forms of ownership and/or usufruct rights:<sup>4,5</sup>



### LAND OWNED PRIVATELY BY INDIVIDUALS AND/OR COMMUNITIES

which could have common property resources;



### LAND RESERVED OR HELD AND USED FOR A PUBLIC PURPOSE,

including open spaces and public infrastructure, mostly administered under the supervision of the District Land Board;



### LAND LAWFULLY HELD, OCCUPIED AND/OR USED BY THE GOVERNMENT

and its agencies to carry out the function of the government.<sup>6</sup>

Customary land tenure can be owned communally, belong to a certain clan, or be held by individual persons. The Communal Land system is primarily found in northern Uganda among pastoral communities (Obaikol, 2014). Customary tenure makes provision for individual property where a person or family are all subject to use rights, ownership, control and transfers (through sale or lease) of land.

In customary tenure systems, the land is administered primarily by traditional leaders, clan elders, family clan heads, churches and neighbours. These traditional leaders, usually men, define the rules and mechanisms for accessing land based on the land's customary practices, religion and social norms (Wily, 2012; Amone and Lakwo, 2014). Women's land rights under customary tenure systems are highly diverse, as practices may change depending on the local context. Most landholdings are small family holdings, held by individuals or by clans in agricultural communities (Obaikol, 2014). For communally held customary land, the Land Act (Section 22) allows for such land to be formally parcelled out to families or individuals under the management of a Joint Land Commission. The recipient of the title for such a parcel is typically the family head (Burke and Kobusingye, 2014).

Traditional leaders, usually men, define the rules and mechanisms for accessing land based on the land's customary practices, religion and social norms.



At the national level, the MLHUD coordinates implementation of the land policy and all matters to do with land management in Uganda. MLHUD is mandated by the 1995 Constitution, under the Objectives of Government. The Land Act defines the institutional structure and provides for the Uganda Land Commission and District Land Board mandates to carry out land administration, management of land transactions, registration of land, demarcation and the issuance of title deeds. Land administration is decentralized under the Uganda Land Commission (Constitution, Art. 238), followed by Land Boards at the district level (Land Boards—Art. 240 of the Constitution), Land Committees at the sub-district level, Communal Land Association management committees at the community level, and Local Council Courts and Village Courts (Acts of 2006) (Achan, 2020; Nakayi, 2013; Nakirunda, 2011). Communal Land Associations are tasked with the administration of collective lands under customary tenure regimes, playing an important role in resolving disputes (Sections 15–21).

Natural resources on unallocated lands also fall under the Ministry of Water and Environment (MWE). Natural resources – including lakes, rivers, wetlands, forest reserves, game reserves, national parks, and any land considered for ecological purposes and tourism – are reserved for the common good of all citizens.<sup>7</sup> Coexistence of multiple rights over land and natural resources is possible, allowing the recognition and registration of rights to multiple rights-holders over land and resources (Obaikol, 2014). Likewise, the formalization and registration of these rights fall under the responsibility of two different government bodies: the District Land Board (land rights) and the MWE (forestry rights) (Obaikol, 2014).

<sup>7</sup> Art 237(1)(b) Constitution of Uganda, 1995

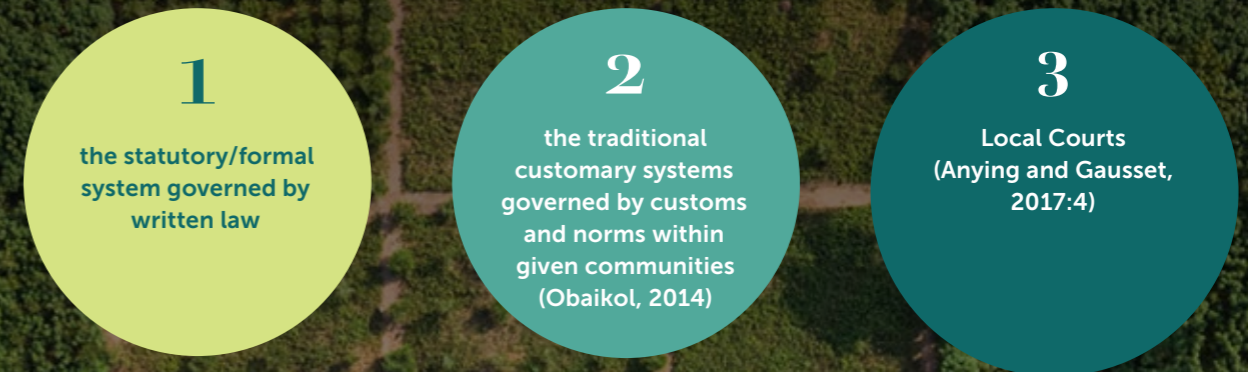
<sup>4</sup> Art 237[1,3] of the Constitution of Uganda, 1995, (rev. 2005)

<sup>5</sup> Section 3 of the Land Act, 1998

<sup>6</sup> There is no clear distinction between state land and public land in legislation. The regulations and guidelines to control the management and use, including disposal, of these lands are not provided for in the Constitution or the laws of Uganda (MLHUD, 2013; PP 13)

## Levels of governance

With the formalization of customary practices, Ugandan land administration operates under conditions of legal pluralism, i.e., where “rules and principles of different origin and legitimation coexist in the same locality” (von Benda-Beckmann and von Benda-Beckmann, 2000:19):



### LAND TENURE REFORMS IN UGANDA

Three main historical periods define the Uganda land policy and administration reforms: precolonialism (pre-1900), the colonial era (1900–1975) and the postcolonial era (1975–onwards). Until 1900, the prevalent mode of land tenure in Uganda was customary tenure, and land relations were classified into three main tenure systems: feudal in the kingdoms of Buganda, Busoga, Bunyoro and Toro; non-feudal in sedentary communities within the arid and semi-arid regions of Uganda, such as Karamoja. Common to all three systems was the fact that title to the land was always vested in the community.

During the colonial era (1900–1975), reforms to land administration and regularization of land holdings resulted in four major tenure systems (*mailo*, freehold, leasehold and customary). Through a series of agreements made with traditional rulers and their functionaries, the British authorities granted several large private estates called ‘*Mailo*’ to the native ruling class in Buganda as freehold titles and native freeholds in Toro and Ankole that were broadly equivalent to the English freehold. This ignored the customary ownership claims of those living on the land.

Upon the attainment of independence in 1962, The government of Uganda retained the system of land tenure introduced by the colonial government until 1975. In 1975 the Government of President Idi Amin issued a decree ‘The Land Reform Decree’ (Decree No. 3 of 1975) which brought radical changes in respect of land and property relations. The Decree declared all land in Uganda to be public with provisions that access would henceforth be based on leasehold tenure only. The Decree vested all land in the State to be held in trust for the people of Uganda and to be administered by the Uganda Land Commission. The four tenure systems were reduced to two (leasehold and customary), with the *mailo* and freehold systems abolished. The Land Reform Decree, 1975, persisted until 1995 when a new Constitution was enacted that repealed the Decree and restored the systems of land tenure.

Source: Nakirunda, 2011; ObaiKol, 2014; Anying and Gausset, 2017; Djurfeldt, 2020; Sabiiti, 2019

# Institutional and regulatory framework regarding women's land and tenure rights

In Uganda, recognition of women's land rights is enshrined in institutional land tenure arrangements provided in regulatory frameworks (Table 1). The Constitution of Uganda<sup>8</sup> and the Ugandan Land Act<sup>9</sup> recognize that women have the right to own land and acquire land through purchase, inheritance, gift or divorce. The National Land Policy (2013) and its Implementation Action Plan (2015) indicate affirmative measures to protect and improve women's secure rights and access to land.



Table 2. Key regulations in the analysis of women's land rights in Uganda



## CONSTITUTION

The constitutional reform of 1995 formalized customary practices regarding land rights, at the same time calling for the abolition of discriminatory practices against women (Andersson Djurfelt, 2020). Furthermore, Art 32(1) provides affirmative actions that favour marginalized groups, including women, relating to rights to land and other natural resources.<sup>10</sup> The Constitution establishes the principle of non-discrimination striving towards equality of access between men and women, and it outlaws any customary norms that prevent women from owning land, as well as prohibiting land sales without the consent of both spouses.

## LAND ACT

The Land Act recognizes customary tenure and makes provision for individual property, where a person or family are all subject to use rights, ownership, control and transfers (through sale or lease) of land. Under this system, both men and women have equal use rights, subject to the approval of the clan.

The constitutional reform of 1995 formalized customary practices regarding land rights, at the same time calling for the abolition of discriminatory practices against women... ”

<sup>8</sup> Constitution of Uganda (Art 26(1), 2[1995])

<sup>9</sup> Land Act (Art. 32[1]1998)

<sup>10</sup> Art 32(1), Constitution of Uganda, 1995





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## OWNERSHIP AND OCCUPANCY BY WOMEN INHERITANCE BY WOMEN

The Constitution establishes that women can hold land on an equal basis with men acquired through purchase, inheritance, gift or divorce (Nakirunda, 2011). A spouse has security of occupancy on family land and any transfer of household land requires spousal consent (Nakirunda, 2011; Pedersen et al., 2012). Both the Constitution (Art. 237(8)) and the Land Act provide security of occupancy for lawful or bona fide occupants of mailo, freehold or leasehold land, and this is particularly important for women in urban areas where land remains under pressure (Ghebru, 2019; Nakirunda, 2011). Thus, long-term unchallenged possession of land is formally recognized for registered owners for 12 years or more (Obaikol, 2014). The application of this law applies only to those who accessed or owned land as tenants before the 1995 Constitution of Uganda on mailo land although this is often not the case in practice (Obaikol, 2014).

A national study in Uganda noted that 16.8% of women had sole ownership of their plots compared to 25.8% for men (Slavchevska et al., 2016). Similarly, more than half (53.2%) of the plots are jointly owned (mostly husband and wife in a household). However, Slavchevska et al. argued that joint ownership does not necessarily mean that women have equality of rights.

A more recent study by Kamusiime and Ntegeka (2019) in the north of Uganda suggests that in areas of this region where customary tenure is most prevalent, only about one-third of the land is owned or co-owned by women (Kamusiime and Ntegeka, 2019). While these figures may be low, an Oxfam study by Burke and Kobusingye (2014) noted that, between 1980 and 2002, there was a remarkable increase from 2% to 22% of women (women only and joint ownership) included in statutory registered land transactions (Burke and Kobusingye, 2014).

From a household perspective, the study by Kes and colleagues (2011) in the south-central region indicated that about 30% of female household heads had their names on a document for land compared to just 7% of women, (in cases where households have wife/husband). Similarly, 41% of female household heads owned land jointly, compared to 13% of women (in cases where households have wife/husband) in Masaka. Regional differences in land registration and certification are linked to differences in implementation and progress across regions, as well as the dominant land tenure system.

Inheritance is an important mechanism for women to access land. About 75.3% of women acquired plots via inheritance compared to 67.3% of men (Slavchevska et al., 2016). While the Constitution instructs Parliament to “make appropriate laws for the protection of the rights of widows and widowers to inherit the property of their deceased spouses and to enjoy parental rights over their children (Art 31(2)),” the Land Act deals only with land rights within marriage, while issues related to inheritance rights are regulated by the Succession Act (Amendment Decree of 1972). However, incongruencies between these two regulations emerge concerning women’s rights to land in marriage. While the Succession Act [Amendment] Decree 22/72 of 1972 restricts any form of application of customary law that does not recognize women’s rights to inherit from their husband(s), this is hardly the case in practice (Nakirunda, 2011).

Actions have been taken to address this inconsistency; the NLP acknowledges the need to redress gender inequality linked to inheritance and land ownership by amending the Succession Act, Chapter 162, “to provide the right to succession and inheritance of family land by women and children.” In practice, however, conflicting interpretations of the law pose legal barriers to women’s rights (Rugadya, 2009). According to the Succession (Amendment) Bill of 2021, a number of clauses were introduced to revise issues on inheritance for women and children as stated in Art 31, 32, and 33. The bill stipulates that a surviving spouse can inherit 20 percent of an estate with dependent relatives share reduced from 9 to 4 percent. The bill further allows that 20 percent of the deceased estate will not be shared but kept in trust for the education and wellbeing of minor children. This clause is also extended to unmarried children above 18 years schooling or living with disabilities at the time of death. The amendment bill further recognises the need for all children whether legitimate or illegitimate to be recognised as children both eligible to inherit.

**Inheritance is an important mechanism for women to access land. About 75.3% of women acquired plots via inheritance compared to 67.3% of men.**



# Land tenure interventions in Uganda

The Land Sector Strategy Plan 2013–2023 (LSSP 1 and LSSP 2) shows progress towards land titling registration and certification (Burke and Kobusingye, 2014; Slavchevska et al., 2016). The programme promotes joint co-ownership, raises awareness and provides legal support to women to reduce gender discrimination in the access to land. It also uses quotas to increase women’s participation and improve representation in land governance systems, promoting their engagement in CLAs and other land administration structures.

## THE INTERVENTIONS – OBJECTIVES AND PROCESS

Women’s participation in institutional structures differs across with important changes partly due to quotas specified in existing regulations. For instance, existing provisions determine that at least one-third of District Land Board members should be women (Section 58(3)). Also, at least one of the four members of Land Committees should be women within each division, council parish<sup>11</sup> or urban gazetted areas (Section 65(1&2), see Table 1). The role of District Land Boards is to control the allocation of unoccupied land to both men and women at the district level and facilitate land transfers and registrations that are not for private/individual lands. The Land Committees are responsible for validating land claims through formal surveys, verifying ownership of land for ownership and “secondary-use” rights, establishing boundary demarcation, and liaising between the District Land Boards and the local population (Nakirunda, 2011).

In addition to these structures, District Land Tribunals are established at the sub-county level (Section 75–77). Three members integrate Tribunals, although no provision exists to determine how women can engage. Nonetheless, women’s participation in Local Council Courts (LCCs) is promoted, as provisions specify that at least three out of five members at the village and/or parish level should be women, and at least one woman out of the three members should engage in LCCs at the town, division and sub-county levels. LCCs have a key role in conflict resolution; they receive and resolve disputes at every village, parish, town, division and sub-county level (Nakayi, 2013). In communally held lands, existing provisions further stipulate that at least one-third (out of nine members) of the Communal Land Association management committees should be women (The Land Act, Section 17(4)(b)). It is, however, not clear from the literature whether Management committees (also called Joint Land Commissions) have gender quotas as in the case of institutional land administrations.

<sup>11</sup> Council “ward” in an urban council is the equivalent of a parish in a district council (Local Governments Act, 1997 [Chap. 243]). <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94558/110993/F966556790/UGA94558.pdf>

## PROGRESS OF IMPLEMENTATION

A study carried out in the Masaka district revealed that having names on documentation for land is associated with increased ability in decision-making over land (Kes et al., 2011). The study found that women’s relationships and position in the households, such as “headship,” emerged as a sign of women’s decision-making ability (ibid.). Furthermore, results highlighted that female-headed households were more likely to access landholding. In practice, this did not always lead to improved decision-making powers regarding land transactions, especially for widows. The situation is worsened by existing regulations in the Succession Act that prevent widows from selling the land (Kes et al., 2011; Nakirunda, 2014). Hence, widows may live in the house, but they are not allowed to sell it (Kes et al., 2011).

Likewise, based on research in the Nwoya district in northern Uganda, Kamusiime and Ntegeka (2019) argue that CCO interventions have yet to improve women’s tenure security in comparison to men’s. Their study shows that accessing individual tenure rights is not common for both men and women and collective rights through customary tenure are mostly seen as usufruct rights. In addition, in the Masaka district, a study showed that only 2.5% of women who owned plots had economic control of outputs compared to 85% of men (Kes et al., 2011).

In cases where there has been successful community-based legal support, some changes in perception regarding women’s land rights in both communal and individual tenure regimes have also been recorded (Behrman et al., 2013). For example, in a study in the Karamoja district, the formation of CLAs facilitated the inclusion of all members of the community instead of following household head representation. This allowed women to engage in discussions about land, increasing their influence in decision-making (Achan, 2020).

Despite regulations that have introduced gender quotas to increase engagement, in practice women’s participation in land administration institutions remains relatively low. For instance, statistics from MLHUD showed that by the year 2008, only 28.6% (16 out of 56) of DLBs met quota requirements for women. In some regions the situation worsens even when women are recognized as DLB members; for instance, in the Lira district, women did not participate in more than 30% of meetings held between 2007 and 2008 (Nakirunda, 2011). In regards to women’s

participation in Area Land Committees (ALCs), a sampling across 13 ALCs showed that women's representation varied greatly and, even in cases where women were part of the Land Committees, they were not active in protecting women's rights and had limited knowledge on legal awareness (ibid.). While progress remains slow, a report prepared by the MLHUD in 2009 revealed that land registration efforts led to a 20% increase in women's ownership of registered land across all of Uganda (Burke and Kobusingye, 2014). These efforts include joint registration with an increasing number of plots registered to female-headed households.

Women's participation has also been recorded in Communal Land Associations. The Uganda Alliance, a local organization that has assisted CLAs to conduct community mapping of communal land resources

(grazing lands, watering points, areas for gathering firewood, and shrines) argues that an existing provision ensuring that a third of CLA executive committee members are women has improved women's participation in the management of communal lands (Paradza et al., 2020). The process allows for the identification of customary lands in the area, particularly areas most vulnerable to land-grabbing (Paradza et al., 2020). Although they also noted that fewer women attended CLA meetings, compared to men, in cases where women attended, they played a very passive role in meetings (Namulondo et al., 2015).

Furthermore, legal right workers (paralegals) have played a key role in providing legal advice. This has raised rights awareness among women, including about their ability to receive joint certification and be aware that men cannot legally sell family land without their consent (Behrman et al., 2013; Patel et al., 2014). Case Study 2 unpacked some of the processes of empowering women's legal rights in Uganda.



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## RAISING AWARENESS AND EMPOWERING WOMEN AND VULNERABLE GROUPS ON LAND RIGHTS THROUGH COMMUNITY-BASED LEGAL AID PROGRAMMES IN UGANDA

Uganda is known for its dual framework following the Land Act, which formalized legal pluralism by recognizing customary rights. National policies have aimed to address intersectional and multiple discrimination on land-related matters. The process leading up to the adoption of the Uganda National Land Policy in 2011 was hailed as a benchmark for high collaboration levels between the Government and civil society. It recognized land rights of women, children, ethnic minorities, pastoral communities, dwellers in informal settlements and slums, and other vulnerable groups, including persons living with or affected by HIV, persons with disabilities, and internally displaced persons. Thus, from its inception, the multi-sectoral and multidisciplinary National Land Policy Working Group included a group to address women's rights. The expectation was that the enactment of such legislation would favour equal access to land rights. Community-based legal aid (CBLA) programmes, also known as Paralegal Advisory Services, were established in collaboration with the Uganda Women's Parliamentary Association to improve the implementation of regulations targeting gender and land issues. CBLA programmes at the grassroots level aimed to improve rural men and women's knowledge of existing laws, attitudes toward women's ability to own or control land and practice on how land is administrated and distributed. The premise of the programme was that education and sensitisation, legal advising, referral to local officials, and alternative dispute resolution enhance women's knowledge of land rights leading to recognition and enforcement. Legal awareness programmes address gender and land rights, property, demarcation, titling and writing of a will. The programme also targeted local leaders and officials to provide legal education and to build their capacity and legal knowledge on these issues.

### Awareness of women's land rights through legal education focus on the following issues:

- **Women and girls can inherit property**, and several measures can be taken to ensure this will be respected to avoid the family of the deceased does not grab land lawfully inherited by widows.
- The land is registered (either via customary certificates of ownership or formal titles), and **women are listed as co-owners** or are listed **as sole owners**.
- The services of CBLA both in terms of legal education (following a **'preventive' approach**) and legal aid (following a **'reactive' approach**) have shown to empower pro-poor groups, change knowledge, attitudes and practice on women's ability to own and control land.

Source: Behrman et al., 2013

# Barriers and constraints to the recognition of women's land tenure rights in Uganda

Although progress has been made so far in ensuring women's land rights through policy and land tenure formalization programmes, several barriers still constrain women's land rights in Uganda.

This section discusses barriers and constraints to the recognition of women's land rights. It discusses them across two sets of issues: those that emerge from existing regulations and their implementation, and those that emerge from existing social norms:



Implementation gaps also linked to awareness and enforcement.

Overlaps and contradictions emerging from the existence of multiple legal systems.

Finally, discriminatory customary practices against women, including social norms about land, relating both to practices of recognition of access rights such as inheritance, marriage and divorce, as well as to those social norms affecting women's ability to exercise rights. Examples of these barriers are provided in **Table 3**.

## IMPLEMENTATION GAPS

Gaps occur in the context of the implementation of land tenure interventions – registration and certification – because of slow progress, costly procedures and limitations to ensuring resources, including staff with capacities to implement and manage gender issues. Furthermore, despite quotas, there is limited engagement of women in existing land institutions.

Tumushabe and Tatwangire (2017) noted the following challenges women and other vulnerable groups face in accessing land in Kalangala district:

- **Lawful tenants and squatters occupying mailo and unallocated land face difficulties in processing certificates of occupancy and later freehold land titles as required by the Land Act.** They are more likely to be evicted from their land by the powerful elites, and their registered land has been taken over without meaningful compensation by the new owners under different land tenure.
- **Absentee landlords compound the tenure situation in the district as some tenants do not know their landlords.** This results in landlords engaging in transactions transferring their land without knowing the bona fide occupants.

Both incidents have been shown to increase tenure insecurity, especially for poor people, women and youth, from accessing land (Tumushabe and Tatwangire, 2017).

Ludovica et al. (2018) argue that implementation of CCOs has been very slow, and that they have come under scrutiny

for not providing clarity regarding co-ownership and joint land certificates for married women. Prevailing perceptions that consider men as legal guardians or household heads often leave the wife vulnerable to dispossession in the face of intense societal pressures and presumptions that men are the real property owners (Cherchi et al., 2019). The term "owner" is loosely translated as "father", "founder", and "person responsible for", primarily making men the custodians of lands (ibid.).

While land registrations and titling have been encouraged, not many plots have been formalized, given the high cost of implementation, limited staff, and the scepticism about formal registration of customary land rights (Burke and Kobusingye, 2014; Ghebru, 2019). Lack of meaningful participation, not providing safe space and strengthened capacities to speak openly, as well as not ensuring the time and place for such meetings, have been shown to be exclusionary factors (LANDnet, 2020). Moreover, the responsibilities of District Land Boards do not include the protection of women's land rights specifically, further constraining the ability to benefit women during implementation.

Implementation gaps are also affecting the formalization of certificates of occupancy; the resistance from landlords who perceived COs as written consent is a major issue (Ali and Duponchel, 2018). While the information on the extent to which women rely on *mailo* land is uncertain at the national level, based on a study in the Masaka district, Kes and colleagues noted that 54% of all women (329) sampled were claiming rights in *mailo* land (Kes et al., 2011).



## CONTRADICTIONS AND INCONGRUENCIES EMERGING FROM OVERLAPPING LEGAL SYSTEMS

In the case of Uganda, prior to the revised Succession (Amendment) Bill of 2021, there were contradictions between The Land Act and the Succession Act which constrained women's ability to secure land rights. While the Land Act includes provision for individual and joint landholdings, the Succession Act managed issues on inheritance which affected women.

Individually, women's rights to land have been recognized by the Land Act to acquire freehold title as tenants. However, in practice, this only applies in instances where women have customary ownership of that land (Kagoda, 2008). While customary tenure systems are expected to grant both men and women equal rights, women's rights to land are limited to use and access rights depending on their relationships with male family members (Doss et al., 2015; Burke and Kobusinge, 2014). Although the Constitution prohibits discrimination on the grounds of sex, customary practices in certain regions assume that women cannot own land but enjoy mainly secondary rights through their husbands or birth family (Hannay and Scalise, 2014; Pedersen et al., 2012).

Beyond the implementation of land tenure interventions, setbacks in implementing programmes such as CBLA include the lack of harmonization of family and property legal frameworks and customary laws that work against women's land rights. The protection of women's land rights as divorcees or separated partners may not be achieved unless effective ways to bring coherence to the formal, religious and customary systems are enhanced (Behrman et al., 2013).

The Marriage, Divorce and Adoption Rules (1998) Law itself is contradictory and fails to recognize the rights of separated and divorced women, neglecting rights to land or property acquired during their marriage (Nakirunda, 2011). While the family code is neutral about polygamous marriages, the Marriage Act limits the number of legal wives to one; hence, in the event of death or divorce, other wives are left out.

The same occurs with the Land Act, as it does not provide clarity on what happens in the case of widowhood and divorce, nor does it provide clarity in case of inheritance (Hannay, 2014; Doss and Meinzen-Dick, 2020; Toulmin, 2005). Meanwhile the Ugandan Succession Act, argued to be rooted in customary and religious practices, does not recognize women's right to inherit from their husbands (Asiimwe, 2001; Doss et al., 2011; Benbih and Katz, 2014).

Widowhood makes women particularly vulnerable; they can remain in residential holdings but they are not allowed to cut down trees, erect or change buildings, or use the land for other purposes, and have no right to sell land with other

land taken from them by the husband's family (Nakirunda, 2011). Furthermore, women who seek to protect their rights via LCCs or traditional institutions often encounter inefficiency due to contradictions from multiple systems. The literature argues that legal pluralism has led to clashes and increased conflict, also often failing to protect women's rights due to procedurally biased customary institutions (Nakayi, 2013; Anying and Gausset, 2017). Lack of legal awareness and ability to influence the formal system increases LCCs' ability to address these issues effectively (Nakayi, 2013).

Existing ethnic diversity has also been highlighted as a result in different interpretations of practices affecting land administration (Tripp, 2004; Behrman et al., 2013). The diversity of customary systems results in overlapping rights over the same resource for different users (e.g., herders and farmers, men, women, parents and children) (Burke and Kobusinge, 2014). For example, the Acholi clan classifies customary land tenure within three categories: arable land, communal clan land, and unallocated or unused land. Arable land is divided, or "individualized," by the clan to household heads (mainly men). Communal land is used as communal hunting grounds, but also includes forest and grazing areas, as well areas used for cultural practices and marketplaces, with authority vested in the clan. Unallocated land is land that the head of the household keeps for his personal use. These different land categories allow users multiple rights to arable, communal and unallocated land, resulting in overlapping rights over resources for different users (Hannay, 2014).

Burke and Kobusinge (2014) also argue that norms and rules associated with customary tenure designed to govern the acquisition and transference of rights should be well delineated. Limited knowledge of what the statutory laws recognize as acceptable principles for customary tenure in northern Uganda tended to give powers to elites, particularly affecting women and children (Burke and Kobusinge, 2014). To avoid this, the Ker Waro Acholi – the highest level of customary leaders among the Acholi people – are in the process of recording governing customary tenure rules in the form of Principles, Practices, Rights and Responsibilities (PPRR). The goal is to make land tenure less complex and provide clarity on acceptable principles for customary tenure (Hannay, 2014). Until these customary laws are recorded and written down, women's rights to land continue in practice to follow social norms for women.

Table 3: Characterization of barriers to the recognition of women's land rights in Uganda

### LEGAL BARRIERS EMERGING FROM IMPLEMENTATION GAPS, LACK OF AWARENESS AND ENFORCEMENT

Barrier/Constraining Factor	Reference
Lack of legal implementation and enforcement of joint certification and registration of CCOs	Doss & Meinzen-Dick, 2020; Nakirunda, 2011; Toulmin, 2005
High cost of implementation, limited staff and scepticism, affecting formal registration of customary land rights and the issue of CCOs and COs	Burke & Kobusinge, 2014; Ghebru, 2019; Ali & Duponchel, 2018
Little representation by women in the Land Commission, on District Land Boards or Land Committees	Nakirunda, 2011

### OVERLAPPING AND CONTRADICTIONARY LEGAL SYSTEMS

Barrier/Constraining Factor	Reference
Customary practices that limit women's usufruct rights, affecting recognition of their formal rights to land	Hannay & Scalise, 2014; Pedersen et al., 2012
Contradictions between the Land Act and the Succession Act, resulting in a lack of clarity and contradictions regarding co-ownership rights between spouses, and non-protection of rights for widows and divorcees	Tripp, 2004; Behrman et al., 2013
Succession Act still rooted in customary practices on inheritance and Islamic law	Asiimwe, 2001; Benbih & Katz, 2015; Doss et al., 2011
Separated and divorced women having no legal rights to land or property that was acquired during their marriage under the Marriage, Divorce and Adoption Rules	Nakirunda, 2011

### SOCIAL NORMS REGARDING LAND, RELATED BOTH TO PRACTICES OF RECOGNITION AND EXERCISE OF RIGHTS

Barrier/Constraining Factor	Reference
Customary norms, social practices, and customs that constrain women from speaking out in public, thus constraining women's ability to exercise their rights in committees, also limiting their ability to represent women's interests in the committees	Burke & Kobusinge, 2014; Nakirunda, 2011; Hannay & Scalise, 2014; Asiimwe, 2001
High levels of illiteracy and poverty, which constrain women's ability to access information and strengthen their capabilities	Ghebru, 2019; Behrman et al., 2013; Billings et al., 2014; Patel et al., 2014



## BARRIERS RESULTING FROM SOCIAL NORMS AND PRACTICES THAT LIMIT WOMEN'S RECOGNITION AND EXERCISE OF RIGHTS TO LAND

With the recognition of the customary tenure system in Uganda, cultural norms, women's status, age, religion and geographical location have been shown to be significant players in women's ability to gain recognition and be able to exercise land rights.

For instance, while customary law guarantees user rights to all family members, the head of the family (usually a male) decides how land should be allocated (Amone and Lakwo, 2014; Benbih and Katz, 2015). Family structure, social status based on marriage, and age limit women's access to and control over land. A study in northern Uganda noted that female respondents in focus group discussions acknowledged women require authorization from male relatives and extended family and clan before using land (Burke and Kobusinge, 2014). In cases involving divorced or unmarried women, they are expected to access land from their birth families (Amone and Lakwo, 2014). Under Islamic law, widows are allocated one-eighth of their deceased husbands' property, and in the case of polygamous marriages, all widows will share this one-eighth allocation with their co-wives (Amone and Lakwo, 2014; Acidri, 2014).

The family structure in most parts of Uganda follows a patrilineal and patrilocal system – referred to as a form of fundamentalism where men controlled the land in customary lands through membership in a particular clan (Asiimwe, 2009). In customary practice, inheritance is handed down most times to the male child, determining that sons benefit more than daughters from land. Furthermore, women typically marry outside of their home area and are expected to move to their husbands' localities. This leaves women access to land through their husbands' lineage (Anying and Gausset, 2017). Therefore, the claim that men need the land to build and settle with their wives and children automatically bestows upon them the right to land ownership (Acidri, 2014). This perception, therefore, makes it difficult for women to own land as they are expected one day to leave the family when married (Acidri, 2014). A widow, therefore, will only hold land in trust for her sons until they are adults (Amone and Lakwo, 2014; Asiimwe,

2009). Despite these practices, a study by the Land and Equity Movement in Uganda (LEMU) found that in some cases fathers and mothers do allocate their families' land to divorced daughters who return home (Adoko et al., 2011).

While both women and men are perceived under customary law to have land use rights, constraints for women usually stem from changes within land management responsibility (Adoko et al., 2011). These responsibilities are passed on to family members through marriage (for boys), divorce (for wives who return to their homes), death of the husband (for widows), death of fathers (for heirs), or death of brothers (for uncles managing the land of orphans) (Adoko et al., 2011). Other customary practices related to bride wealth also affect women's tenure security. Several studies in Uganda noted that the paying of bride wealth is often viewed as making women the property of their husbands. In some cases, even gifts to the wife and property acquired individually are considered as belonging to the husband (Asiimwe, 2001; Hannay, 2014; Acidri, 2014). For example, among the Iteso people in eastern Uganda, a woman may be counted as property if the man or his family has given bride wealth before marriage (Aciro-Lakor and Asiimwe-Mwesige, 2010).

In land governance structures, women face resistance and criticism when speaking up for their land rights in front of men (Burke and Kobusinge, 2014; Nakirunda, 2011). Furthermore, women often lack the authority to make decisions around what to cultivate, which limits their control over income (Cheromoi, 2012; Kes et al., 2011). Other challenges have been related to women's protective mechanism to avoid violence at home. For example, Cheromoi conducted a study in Busia District in eastern Uganda and reported that many women felt they needed to keep quiet about land rights issues to protect themselves against divorce and violence (Cheromoi, 2012).

## Access to justice and mechanisms for land dispute resolution in Uganda

Statutory laws have established Land Tribunals and local government mediators to assist all people, regardless of gender, on land disputes. However, Land Tribunals are not functioning, and to facilitate dispute resolution, the Local Council Courts Act of 2006 (under section 45, Act No 13) created Village Council Courts to handle land-related conflicts of a customary nature.

Following this was the Local Council Courts Regulation of 2007 which established the composition of the village, parish, subcounty, town, and division local council courts and their respected mandates (Reg [2-8], 2007).

Decisions derived from village council courts are considered formal rulings. A 2014 Oxfam study of land disputes, which studied cases affecting women in village courts, highlighted that land-grabs and evictions are a common issue, often due to the husband's death or divorce (Burke and Kobusinge, 2014). The efficiency of both traditional and statutory courts for reaching dispute settlement has been questioned, as protection of women's rights under formal law is not necessarily upheld under customary law (Nakayi, 2013). While studies noted that interventions through community-based legal aid organizations continue to assist women in strengthening their legal awareness, highly expensive, long and cumbersome processes keep them from pursuing land cases via the formal system (Ghebru, 2019; Behrman et al., 2013; Billings et al., 2014).

The struggle to exercise and realize land rights is constrained by poverty due to high legal costs (Cheromoi, 2012; Nakirunda, 2011). High costs for transportation and long and cumbersome legal cases further discourage women from ascertaining their rights to land. For example, Mukasa et al., (2019) noted that there is a four-year backlog of cases in courts. The expensive nature of sustaining court cases for years becomes very challenging for women who choose to use access to formal justice systems as a tool to increase access to land (Mukasa et al., 2019). In addition to

time, the costly court fees and legal fees for lawyers can be very intimidating for most women, who are often less educated. For venues that may not be physically accessible to women in the villages, this further hinders their chances of seeking justice in land-related issues (Hannay, 2014).

The widespread land-rights knowledge gap among Ugandan women, together with a complex land tenure system, results in elite capture and corruption (Arson et al., 2018). In some cases, women lack the awareness and information to navigate complex legal channels to exercise their legal rights (Arson et al., 2018). When they do access courts for redress, the judicial process delays result in most women giving up disputed land (Acidri, 2014).

For instance, analysis of data from the land registry in Amuru District Court showed that, out of 149 file cases, only five judgements had been passed over two years, arguing that Local Council Courts take a shorter time and rely on mediation and consensus among parties (Anying and Gausset, 2017). Referring to two local cases in northern Uganda, these authors highlight the complexity of both conflicts as well as the different types of institutions involved in land dispute resolution, including formal institutions such as Magistrate Courts, but also traditional institutions including Clan Chiefs, Local Council Courts, government officials and NGOs. Furthermore, conflicts emerge when the same case is taken both to magistrate courts and to the Local Council Court at the same time, calling for more coordinating and collaboration between these bodies (Anying and Gausset, 2017).



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Climate change, biodiversity loss, environmental degradation, and malnutrition. These four interconnected global crises have put at stake the wellbeing of our planet for years. Fueled by COVID-19, their impact on agriculture, landscapes, biodiversity, and humans is now stronger than ever. Reversing this negative trend is a challenge, but also an opportunity for bold choices and integrated solutions. Established in 2019, the Alliance of Bioversity International and the International Center for Tropical Agriculture (CIAT) was created to address these four crises, maximizing impact for change at key points in the food system.



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